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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,991	11/21/2003	Neil G. Stockman	33406/US	9112
27076 7590 01/19/2007 DORSEY & WHITNEY LLP INTELLECTUAL PROPERTY DEPARTMENT SUITE 3400 1420 FIFTH AVENUE SEATTLE, WA 98101			EXAMINER OGDEN JR, NECHOLUS	
			ART UNIT	PAPER NUMBER
			1751	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/19/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/718,991

Applicant(s)

STOCKMAN ET AL.

Examiner

Necholus Ogden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10-31-2006 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 1 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The aforementioned claims state the phrase "substantially surrounding" which is not defined in the specification as to what "substantially" encompasses. Does this mean more than 10% or less than 98%? One of ordinary skill in the art would not be able to determine the metes or bounds of the invention.

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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5. Claim 28 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The aforementioned claim state the phrase rigid soap "extends beyond" the scrubbing element. This phrase "extends beyond" is not supported by the specification. Applicant appears to have support for the scrubbing element extending throughout the soap bar (page 6, lines 7-9 of the specification). Clarification and/or corrections are required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Franz (3,468,096).

Franz discloses a scouring pad comprising layers of non-woven fibrous material (see abstract); wherein the non-woven material comprises synthetic fibers, metallic fibers or various animal or vegetable fibers. Franz teaches that the metallic fibers may comprise steel wool and stainless steel fibers and the synthetic fibers include nylon (col. 2, lines 54-72). Franz further teach that said scouring pad has a washing compound such as soaps that are deposited within the scouring pads (col. 4, lines 49-60). Franz

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teaches that the metallic fibers may comprise steel wool and stainless steel fibers and the synthetic fibers include nylon (col. 1, line 71-col. 2, lines 1-15). Franz further teaches that said scouring pad has a washing compound such as soaps that are deposited within the scouring pads (col. 4, lines 54-60).

As this reference teaches all of the instantly required it is considered anticipatory.

2. Claims 1-6, 10 and 28 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over McClain (3,451,758).

McClain discloses a scouring pad comprising a nonwoven fibrous material such as synthetic fibers, metallic fibers, or various animal or vegetable fibers and mixtures thereof. McClain teaches that the metallic fibers may comprise steel wool and stainless steel fibers and the synthetic fibers include nylon (col. 2, lines 60-65). McClain further teach that said scouring pad has a washing compound such as soaps and other anionic synthetic detergents that are deposited within the scouring pads (col. 4, lines 15-25).

Note, see example 1.

As this reference teaches all of the instantly required it is considered anticipatory.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.

3. Claims 1-6 and 28 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Klein (3,175,331).

Klein discloses a scouring pad comprising layers of non-woven fibrous material (see abstract); wherein the non-woven material comprises synthetic fibers, metallic fibers or various animal or vegetable fibers.

As this reference teaches all of the instantly required it is considered anticipatory.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.

4. Claims 1, 4, 7 and 28 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over McDonell et al (5,282,900).

McDonell et al disclose a nonwoven cleansing article comprising organic fibers and dispersed throughout and adhered to the fibers are aluminum-based materials (col. 9, lines 40-68). McDonell et al further teach the inclusion of surfactants (Table 2).

As this reference teaches all of the instantly required it is considered anticipatory.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.

5. Claims 1-3 and 28 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hsu et al (6,171,007).

Hsu discloses a washing cake of soap and its fabrication method wherein a molded cake of soap is embedded into a polyethylene net material (col. 2, lines 24-38).

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As this reference teaches all of the instantly required it is considered anticipatory.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.

6. Claims 1 and 28 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Stein (4,050,825).

Stein discloses a cake of soap, which comprises bristles that may extend over a flat, curved or hollow surface. See figures 1 and 2.

As this reference teaches all of the instantly required it is considered anticipatory.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over McClain (3,451,758).

McClain is relied upon as set forth above. Specifically, McClain does not teach with sufficient specificity to anticipate the claimed natural or synthetic sponge material of claim 8, however, it would have been obvious to the skilled artisan that McClain teaches the use of natural animal or vegetable fibers can broadly be classified as having sponge material. Therefore, it would have been obvious to assume that the organic material of

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McClain will have the characteristics of sponge material, absent a showing to the contrary.

Response to Arguments

8. Applicant's arguments filed 10-31-2006 have been fully considered but they are not persuasive.

Applicant argues that Franz and McClain do not disclose or fairly suggest a scrubbing element surrounded by a rigid soap material.

The examiner contends and respectfully disagrees because Franz teaches that the washing or detergent composition centrally located within the scouring bar (col. 2 lines 38-40) and that said detergent material is a cake or tablet (see claim 1); and McClain teaches that said detergent or washing composition is impregnated into the fibrous layers of the scouring pad (col. 4, lines 15-25) and that said material is a solid cake (col. 2, lines 32-35, figures 5A-5C). As applicant has not defined the term "substantially", it would have been inherent to the compositions of Franz and McClain to surround the fibrous layers of the scouring bars with detergent compositions largely but not wholly in view of the teaching disclosed therein.

Applicant argues that McDonnell do not fairly suggest or disclose the limitation of scrubbing element consisting essentially of a filamentous network with internal void regions.

The examiner contends that McDonnell teaches non-woven cleansing article comprising organic fibers and dispersed throughout and adhered to the fibers are aluminum-based materials (col. 9, lines 40-68). Therefore, since McDonnell teaches

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non-woven material that satisfies the requirement of filamentous network with internal void regions as claimed. Therefore, the McDonnell specifically teaches the claims with sufficient specificity.

Applicant argues that Klein does not teach that the solid material extends beyond the pad.

The examiner contends that applicant does not describe what "extend beyond" encompasses where one of ordinary skill could determine the metes or bounds of the invention. However, Klein teaches that a solid material is between the batts and may be in the form of flakes, granules or pellets (col. 5, lines 35-50). Therefore, it would be inherent to the cleansing pad of Klein to substantially surround and extend beyond the scrubbing element.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Necholas Ogden whose telephone number is 571-272-1322. The examiner can normally be reached on M-T, Th-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Necholus Ogden
Primary Examiner
Art Unit 1751

No
1-13-2006